IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4000 OF 2004

(Mrs.Sujata Sadanand Shetty Vs. The State of Maharashtra & Ors.)

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.R.K.Mendadkar for the petitioner.
Mr.R.M.Patne AGP for respondent nos.1, 2 and 5.
Mr.R.G.Ketkar for respondent no.3.

CORAM: V.G.PALSHIKAR &
D.B.BHOSALE, JJ.

DATED: 19TH OCTOBER, 2005

P.C.:

. By this petition, the petitioner has challenged the order passed by the caste scrutiny committee basically on the ground that the committee has not considered on merits the claim of the petitioner that she belongs to a schedule caste called 'Bant caste'. Heavy reliance was placed on the judgment delivered on 13th September, 2005 in the case of Mrs.Savitri. Paragraph 2 of the judgment reads thus:

> "2. The Caste Scrutiny Committee is duty bound to decide whether the case of the candidate whose certificate is sent to it belongs to the caste which is mentioned in the certificate or

> not. It may coincidentally decide that even if the person does belong to a particular caste or community may not be entitled to benefits flowing out of the same. Basically it must decide as to whether the person claiming to be a person of a particular caste is so or not so. The detailed order passed by the committee lacks such findings. It is therefore necessary that the impugned order dated 2.12.2002 is set aside and the matter is remitted back to the Caste Scrutiny Committee."

2. It was contended relying on the aforesaid paragraph that the committee has not considered the claim of the petitioner that she belongs to particular caste. We are unable to accept this submission. The judgment cited above specifically deals with the issue of lack of finding. It is specifically noted that the detail order passed by the committee lacks such finding that is to say finding regarding the petitioner belonging to caste or otherwise. This judgment is not applicable to the instant case for the reason that the committee in its impugned order does consider this aspect and has rejected the claim of the petitioner. The committee has observed and found as below:

> "... ... ... She was therefore required to produce proof of residence in the State of Maharashtra as on 10.8.1950. However, she has not produced any evidence to this committee. Though, enquiry report has been submitted by Vigilance Cell. In that strong proof of residence prior to 1950 has not been submitted. The report is vague and therefore has not been considered by the committee. Moreover, explanation rendered by Mrs.Sujata Shetty about 1950 residence is not satisfactory."

3. It will be seen from the above paragraph that the committee found that there was no evidence produced by the petitioner to prove her caste and consequently, the certificate could not be validated.

4. It was then submitted that the representation of the vigilance committee was clear report showing that the caste of the petitioner was ‘Bant’. This aspect is also dealt with by the committee and it is found that the report is vague and is, therefore, not acceptable. We were asked to reconsider this aspect by going through the report. It is not possible for us to do so as we are not sitting in the appeal. The tribunal has found that there is total

lack of evidence and, therefore, the certificate is not validated. There is clear finding recorded by the tribunal. In our opinion, there is no substance in this petition and, therefore, it is liable to be rejected and it is rejected. In view of the fact that the petition is rejected the interim relief automatically stands vacated.

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